

OFFICE OF THE GENERAL COUNSEL

M E M O R A N D U M

TO: Chief, Dockets Division

FROM: Associate General Counsel, Litigation Division

SUBJECT: Columbia Associates, L.P. v. FCC & USA, No. 93-1409.  
Filing of a new Petition for Review in the United  
States Court of Appeals for the District of Columbia  
Circuit.

DATE: June 24, 1993

Docket No(s). MM Docket No. 92-266

File No(s).

This is to advise you that on June 22, 1993, Columbia Associates, L.P., filed with the United States Court of Appeals for the District of Columbia Circuit a:

X Section 402(a) Petition for Review  
Section 402(b) Notice of Appeal

of the following FCC decision: Report and Order, FCC 93-177, released May 3, 1993. Petitioner challenges Report and Order adopting FCC cable rate regulation rules.

Due to a change in the Communications Act, it will not be necessary to notify the parties of this filing.

The Court has docketed this case as No. 93-1409 and the attorney assigned to handle the litigation of this case is Laurence N. Bourne.

Daniel M. Armstrong

cc: General Counsel  
Office of Public Affairs  
Shepard's Citations

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U.S. COURTS OF APPEALS  
FOR THE DISTRICT OF COLUMBIA

93 JUN 22 PM 3:21 IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

COLUMBIA ASSOCIATES, L.P.,

Petitioner,

v.

FEDERAL COMMUNICATIONS  
COMMISSION and UNITED  
STATES OF AMERICA,

Respondents.

Case No. 93-1409

PETITION TO REVIEW

Columbia Associates, L.P. ("petitioner"), a limited partnership organized under the laws of the State of Delaware, and the owner and operator of five(5) cable television systems located throughout the United States serving approximately 250,000 subscribers, hereby petitions, pursuant to 47 U.S.C. § 402(a) and 28 U.S.C. § 2344, for review of the Report and Order of the Federal Communications Commission ("Commission") in MM Docket 92-266, adopting regulations governing the terms and conditions, including subscriber rates, pursuant to which cable television operators may conduct their communications business and offer services to the public. A synopsis of the contested Report and Order, including the newly adopted regulations, was published in the Federal Register, 58 Fed. Reg. 29736 (Daily Ed. May 21, 1993), copy of which is attached.<sup>1/</sup> Petitioner's

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<sup>1/</sup> The full text of the Report and Order was issued by the Commission May 3, 1993 and exceeds 500 pages in length. Peti-

[Footnote cont'd.]

interests are directly and adversely affected by the challenged Commission action.

Venue resides in this Court under 28 U.S.C. § 2343.

The grounds on which petitioner seeks relief are that the subject Report and Order and those regulations adopted thereby:

- 1) Exceed the authority of the Commission as limited by the First Amendment to the U.S. Constitution;

- 2) violate the Speech and Press Clause of the First Amendment to the U.S. Constitution by abridging the constitutionally protected freedoms of petitioner and others;

- 3) constitute an unlawful taking of the property of petitioner and others without just compensation in violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

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[Footnote cont'd.]


tioner notes that the regulations adopted by the rulemaking were scheduled to become effective June 21, 1993 but, by action taken on the Commission's own motion June 11, 1993, were stayed until October 1, 1993. Numerous petitions for reconsideration of the subject Report and Order have timely been filed with the Commission.

4) exceed the statutory jurisdiction  
and authority of the Commission; and,

5) are otherwise arbitrary, capricious  
and unlawful.

Petitioner prays that the Report and Order and those  
regulations adopted thereby be declared unlawful, enjoined, sus-  
pended and set aside.

Respectfully submitted,



John P. Cole, Jr. (D.C. Bar #2436)  
Robert G. Scott (D.C. Bar #19559)

Attorney for Petitioner:  
COLUMBIA ASSOCIATES, L.P.

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June 22, 1993